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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,304	07/01/2003	Michael Andrew Fischer	050337-1200 (05CXT0059WL)	5599
20306 7590 10/01/2009 MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP 300 S. WACKER DRIVE 32ND FLOOR CHICAGO, IL 60606				
EXAMINER				
DAVENPORT, MON CHERI S				
ART UNIT		PAPER NUMBER		
2416				
MAIL DATE		DELIVERY MODE		
10/01/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/611,304

Applicant(s)

FISCHER ET AL.

Examiner

MON CHERI S. DAVENPORT

Art Unit

2416

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 30-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 30-32, 34-37, 39, 40, 42-44, 46, 47 and 49 is/are rejected.
- 7) ☒ Claim(s) 33, 38, 41, 45 and 48 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/16/2009 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims **30-32, 34-37, 39, 40, 42-44, 46, 47 and 49** rejected under 35 U.S.C. 102(c) as being anticipated by Chiang et al. (US Patent 6,813,266).

Regarding **Claims 30-32, 34-37, 39, 40, 42-44, 46, 47 and 49** Chiang et al. discloses a lower medium access control entity, comprising (see figure 2):

a processor(see figure 2, section 50, processor);

a data storage unit coupled to the processor, wherein the data storage unit comprises a plurality of partial queues, wherein each of the plurality of partial queues has a capacity less than a frame length, and wherein each of the plurality of partial queues has an associated class of service (see figure 2, section 56, PV FIFO queues, output queues 58 priorities, see col. 5-6, lines 58- 20, see col. 7, lines 9-13, the MAC stores a portion of a frame in an internal FIFO upon

reception from the corresponding witch port , the size of the FIFO is sufficient to store the frame data that arrives between scheduler time slots(reads on having a capacity less than a frame length) the associated class is related to priorities, see col. 7, lines 50-56, there are low priority and high priority frames and queues); and

a transmitter coupled to the processor, wherein the transmitter has access to a shared communications channel, wherein the processor is configured to (see figure 3, section 24b, transmit portion, see col. 6, lines 29-36)

(i) receive from an upper medium access control entity a first portion of a first flame with a first class of service(see col. 6, lines 30-36, frames received, see col. 7, lines 50-56, frames have low or high priority, see col. 7, lines 9-13 portions of a frame received) ;

(ii) receive from the upper medium access control entity a first portion of a second flame with a second class of service(see col. 6, lines 30-36, frames received, see col. 7, lines 50-56, frames have low or high priority, see col. 7, lines 9-13 portions of a frame received see ;

(iii) store the first portion of the first flame in a first queue in the plurality of partial queues according to the first class of service(see col. 7, lines 49-56, the frame portion are queue with respect to the Priority(class of service));

(iv) store the first portion of the second flame in a second queue in the plurality of partial queues according to the second class of service((see col. 7, lines 49-56, the frame portion are queue with respect to the Priority(class of service)) ;

(v) determine that the first class of service is higher than the second class of service(see col. 7, lines 49-56, low and high priority (higher than class of service));

(vi) initiate a transmission of the first portion of the first flame into the shared communications channel via the transmitter(see col. 7, lines 40-48, the frame portions are transmitted from the queue);

(vii) in response to the initiation, receive a second portion of the first flame from the upper medium access control entity(see col. 8,lines 62-65, the data frames are processed using pipelining);

(viii) store the second portion of the first flame in the first queue(see col. 7, lines 49-56, the frame portion are queue with respect to the Priority(class of service);

(ix) upon completion of the transmission of the first portion of the first frame, transmit the second portion of the first flame into the shared communications channel via the transmitter(see col. 8, lines 62-65, the data frames are processed using pipelining);

(x) upon completion of the transmission of the second portion of the first frame, initiate a transmission of the first portion of the second frame; (xi) in response to the initiation, receive a second portion of the second flame from the upper medium access control entity; (xii) store the second portion of the second flame in the second queue; and (xiii) upon completion of the transmission of the first portion of the second frame, transmit the second portion of the second flame into the shared communications channel via the transmitter(see col. 10, lines 57-65, the frames are transmitted in parallel, using pipelining allowing increase throughput, see col. 8,lines 62-65, the data frames are processed using pipelining).

Allowable Subject Matter

4. Claims 33, 38, 41, 45 and 48 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments with respect to claims 30-49 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MON CHERI S. DAVENPORT whose telephone number is (571)270-1803. The examiner can normally be reached on Monday - Friday 8:00 a.m. - 5:00 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kevin C. Harper/
Primary Examiner, Art Unit 2416

/Mon Cheri S Davenport/
Examiner, Art Unit 2416
September 27, 2009